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US DISTRICT COURT E.D.N.Y.

★ OCT 29 2016 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

DeSean Gaither

BROOKLYN OFFICE

CIVIL RIGHTS COMPLAINT

42 U.S.C. § 1983

**CV 16**

**6075**

[Insert full name of plaintiff/prisoner]

Plaintiff,

JURY DEMAND

YES  NO \_\_\_\_\_

-against-

Department of Corrections

Capt Heansley, Capt Biggs

Capt Santos, Capt Buttersfield

C.O Earle, Capt Alana

C.O Jane Doe \_\_\_\_\_

Dept Jane Doe, Capt Middleton  
Defendant(s).

MAUSKOPF, J.

BLOOM, M.J.

[Insert full name(s) of defendant(s). If you need additional space, please write "see attached" and insert a separate page with the full names of the additional defendants. The names listed above must be identical to those listed in Part I.]

I. **Parties:** (In item A below, place your name in the first blank and provide your present address and telephone number. Do the same for additional plaintiffs, if any.)

A. **Name of plaintiff** DeSean Gaither

If you are incarcerated, provide the name of the facility and address:

AKMC 18-18 Hazenast East Elmhurst  
New York 11370

Prisoner ID Number: 241-16-05073

If you are not incarcerated, provide your current address:

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Telephone Number: \_\_\_\_\_

**B. List all defendants.** You must provide the full names of each defendant and the addresses at which each defendant may be served. The defendants listed here must match the defendants named in the caption on page 1.

Defendant No. 1

Hearnsley  
Full Name  
Captain  
Job Title  
Barge 1 Halleck street  
Bronx NY 10474  
Address

Defendant No. 2

Biggs  
Full Name  
Captain  
Job Title  
Barge 1 Halleck st  
Bronx NY 10474  
Address

Defendant No. 3

Santos  
Full Name  
Captain  
Job Title  
Barge 1 Halleck st

Bronx NY 10474

Address

Defendant No. 4

Bathersfield

Full Name

Captain

Job Title

18-18 Hazen Street

East Elmhurst 11370

Address

Defendant No. 5

Alane

Full Name

Captain

Job Title

1606 Hazen st

East Elmhurst, NY 11370

Address

continued  
see Attached IB.

**II. Statement of Claim:**

(State briefly and concisely, the facts of your case. Include the date(s) of the event(s) alleged as well as the location where the events occurred. Include the names of each defendant and state how each person named was involved in the event you are claiming violated your rights. You need not give any legal arguments or cite to cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. You may use additional 8 1/2 by 11 sheets of paper as necessary.)

Where did the events giving rise to your claim(s) occur? see Attached II

for Entire statement of claim section

When did the events happen? (include approximate time and date) \_\_\_\_\_

IB.

Defendant No. 6

Full Name: Earle

Job title: Correction Officer

Address: 16-00 Hazen Street  
East Elmhurst NY 11378

Defendant No. 7

Full Name "Jane Doe" chubby, Blondish brown hair,

light skinned, D.O.T escort on 8/6/16 at 4:00pm

Job title: correction officer

Address: 16-00 Hazen Street

East Elmhurst NY 11378

Defendant No. 8

Full Name "Jane Doe" short, Dark skinned, lady

Dreadlocks Deputy of 5 north on 8/27/16 at

approximately 12:00 pm

Job title: Deputy

Address: 16-00 Hazen Street

East Elmhurst NY 11378

Defendant No. 9

Full name Middleton

Job title: Captain

Address: 16-00 Hazen St East Elmhurst NY 11378

II. In V.C.B.C Barge 1 Halleck st Bronx NY 10474 On July 14<sup>th</sup> 2016 at approximately 4:30am- 7:00am my cell was intruded by Defendant No.1 Captain Hensley and two John Doe Officers Defendants 2 and 3 who forcibly woke me up after getting no response from me after trying to get me up for court after I told them I take medication and its no reason I should be going down stairs this early if the first bus leaves at 7:00am Still they wanted me to go downstairs so they used excessive force struck me several times in the Ribs threw me from the bed to the floor making me hit my head and using painful control holds which made me feel like my wrist and legs were breaking I screamed several times to let go of me they finally stopped assaulting me I told them I wanted to go to medical so they could see the damages done to me after that they locked me inside of my cell and never let me go to court denying me medical attention for there excessive use of force on me I was having severe headache Abdominal pain and was stuck in my cell I wrote down a grievance that was never answered and signed up for sick call.

The Second incident given rise to my claims happened in V.C.B.C Barge 1 Halleck st Bronx New York on July 15<sup>th</sup> 2016 At Approximately 4:30am- 7:00am Captain Hensley comes back to my cell and wakes me up forcefully because he was getting no response from me

Once I woke up he told me to get dressed for court I told him today was the day I practice my religion I'm not going today. Still he persisted on me going trying to force me out using excessive force when I wouldn't come out he threatened me saying the same thing that happened yesterday was gonna happen again but worse. I told him he would get in trouble he said its no cameras in your cell so I'll just say you assaulted me. So by the time I come back you better be ready or we will get you ready at that instant I got up got dressed and came out my cell I said ok force me now while we are on camera do all the stuff you said you were gonna do now then he told me he was gonna spray me so I hoisted myself over the top-tier railing saying I will fall over if you spray and jump down he tried talking me down and I denied his advances he called for more back-up and a C.O that wasn't involved in yesterdays events said he would take me downstairs to sign a refusal but they never let me instead they put me in a cell to sit down there for several hours under the A.C with no jacket or sweater despite my several cries telling them I was anemic and told me if you don't get on the bus you will be in intake all day and miss Jumma any way so you mind as well go or would you rather sit down here in the cold

So when the bus came I just went to court I

wrote a grievance and it was never answered.

The next incident that occurred given rise to my claims was on July 18<sup>th</sup> 2016 at approximately 4:30am which Captain Biggs woke me up forcefully out of my sleep with excessive force saying not this guy again then she threatened the house saying that if I didn't wake up now nobody was going to commissary then she let the inmates come to my cell and threaten me I felt scared for my life so I got dressed and ran to the entrance of the housing area and took off all my clothes and just sat there I didn't want to be moved or touched so I just waited there I told them I wanted to speak to mental health but they never let me see them they just sent a C.O. (C.O. Johnson) to come talk to me I told him how I take medication and the C.O.'s wake me up so early well before 7am when the first bus comes and sit me in the cold A.C for hours with no way to sleep and being cold with nothing to warm me up he told me to get dressed and he would get me a sweater and to write a grievance I told him I didn't feel safe going back to that housing area. My grievance never got answered and they kept me in that housing area more

Didn't feel safe and made countless arguments to leave

The fourth incident that occurred given rise to my claims happened in V.C.B.C Barge 1 Halleck street Bronx NY 10474 in the 3CB housing Area on July 21st 2016 in the 3B housing and also the main intake between the hours of 10:00am to approximately 3:00 pm It Started when a fight broke out in the day room area that had nothing to do with me the probe team already had the people involved in the incident even the C.O told them I had nothing to do with the incident still they struck me several times and slammed me up against the wall with excessive force stammin my back and head on the brick walls and while I had wet clothes on they took me into the intake with the A.C blowing and left me in the intake cell with Angel Garcia one of the people who actually had the fight for hours in ~~wet~~ wet clothes and I'm anemic I never got to see medical for the excessive use of force and the headaches and migraines I started to get during and after the situation I filed a grievance which was never answered Captain Santos is the only probe team member I could identify.

On July 22nd in V.C.B.C Barge 1 Halleck street at approximately 7 o'clock am ~~in~~ in the 3CB housing

and also in the intake area. I work with several officers in my cell yet again and my cell totally destroyed paper work clothes books and food thrown everywhere. I asked them what happened they told me they were searching my cell while ~~they were~~ I was sleeping they said it was cause "I wasn't responding" at that time medical had come up to see what was wrong I explained to them I take medication and it makes me sleep heavy they made me go down to the clinic to make sure I was ok even though I told them I was ok when I was done I told them I wanted to go to recreation they told me no and bring me upstairs so I stayed in the entrance part of 3CB housing Area and asked several times for them to take me to Rec they told me yes at one point then out of nowhere they told me no after that I had a fit and took off all my clothes and sat in the hall naked after that the probe team came they told me they would take me to Rec but instead they triked me and threw me in an intake cell and they told me they were moving me to C-95 when they were shipping me out I was naked and they used excessive force on my undressed body touching me in inappropriate places unnecessarily hurting me striking me and contorting my

body in painful positions they finally got me dressed and put me on a stretcher and extracted me to the bus leaving my property (clothes, law work, personal papers commissary and books) behind between the suit closet and the intake registry on the bus to C-45 I tried to commit suicide by ripping clothes off and hanging myself. When I awoke I was outside of C-45 with the doctor pressing down on my face with a monitor after they got a response they wheeled my naked body into the main clinic from there captain Bathersfield gave me a blue plastic hospital gown and stuck me in a room with the A.C blowing I was naked asking the officers to bring me clothes for an hour and they never brought them even after I constantly told them I was anemic after a while I couldn't take it anymore so I started cutting myself with a jag edged spoon they they called the captain and she sprayed me the C-45 then took me to the decontamination cell where they put me under blacing hot water while I sat there screaming and crying unable to breathe begging them to make the water cooler.

Which brings me to the next situation On July 22nd at approximately 5:00 pm I wast suppose to be in AMK C 18-18 hazen st East Elmhurst NY 11370 because I have order of separations

on C.Os and captains I've sued in the past they knew this so they left me in intake cells from the 22nd to the 24th of July 2016 with none of my medication no bed and the rest of of my minimum standards with in that time their was a slashing almost aimed at me because they told the inmates in the cell that I was crip and all of them were blood then they tried to charge me with the assault until one of the persons involved admitted to doing it then they sent me back in that cell for another day and a half. then finally they moved me back to U.C.B.C Barge 1 Halleck Street Bronx NY 10474 main intake but once I got their they said they weren't housing me so they left me in there intake pen another day no phone no medication and none of my minimum standards then they tried to move me to brooklyn house and I took off my clothes I was feeling anxious and paranoid ~~so the C.O's came in~~ I was feeling so violated and disrespected I tried to hang my self again but the C.O's came in and started grabbing me and touching me in my private areas in the process they got me dressed and

cuffed me and then extracted me to the bus and sent me on my way to brooklyn house I was feeling scared and anxious so I hung myself on the bus next thing I know I was on a stretcher with amnesia on my face with the ambulance sending me to Bellevue Hospital

The next incident happened in the prison ward of bellevue hospital on July 25<sup>th</sup> 2016 in the Dayroom area at approximately 9:00 pm They were moving me and wouldn't let me talk to my family I got anxious and scared took off all my clothes the C.O's started forcibly grabbed me and started touching me in private areas the captain twisting my neck with aggressive "control holds" they forcefully got me dressed and took me to the bus leaving all my property being once again (story boards outlines illustrations and lyrics I was trying to re-iterate so on the bus I hung myself again woke up on my way to lincoln hospital in the clinic off V.C.B.C from meolin Hospital they sent me to Bellevue for a psyche evaluation the c.o told the psyche not to admit me and the Doctor

listened The C.O then said "yea your going back to the island and I'm gonna make sure you go back to the worse possible house because of all these shunts you pulling" I got anxious and scared again so I hung myself the next thing I realize I'm in V.I.B.C sallyport they left me naked there for hours until they finished the paperwork to transfer me to I.B.C.C then they transported me there naked and when I got to I.B.C.C sallyport were they put me on a stretcher naked and rolled me in a cell with no bed or no blanket just a green smock-shirt and left me there all day they left me dead locked in my cell for two days so I hung myself in my cell and cut myself that's when they finally let me out I told them I didn't wanna go back on the count of C.O Earle saying "You making my job hard I'm gonna make sure if you come back you get fucked up" but yet they still sent me back.

The next situation happened on August 6 2016 when they forgot to afford me my medication and they sent me down with Jane Doe C.O Defendant No. 7 and

She had an attitude about it and made it known with vulgar language in ~~the~~ I.B.C.C 16-00 East Elmhurst NY 11310 She called me a retard When we finally got to the main intake she was still going on and then I said to her "if you have that much of a problem someone else should have your job" after that she said "ok smart ass now your not getting your medication" I told her I'm not going anywhere without my medication she then called the probe team they came and told me put my hands behind my back I said I didn't do anything I need to get my medication they kept telling me put my hands behind my back I got anxious and grabbed hold of the cubicle separator then they grabbed my hands put them behind my back after I was secured c.o Jane Doe Defendant sprayed me for no reason also spraying her fellow officers in the mix of things they let me go and the lady officer who was spraying me chased me and kept spraying me I was holding my eyes bunched up on the floor when c.o's came jumped on top of me striking me in the back of the head spitting on me then knees in my back and using crazy and painful control holds on me even though I wasn't resisting I asked them several times to stop spittin on me and stopped hurting me they finally did picked me up by

the hand cuffs hurting my wrist leaving marks all over me then they put me in a decontamination shower for 5 hours and I'm anemic I suffered cruel and unusual punishment I suffered abnormal bruises to the back of my head and lacerations on my neck and wrist

On August 8 2016 in O.B.C.C 16-00 Hazen st East Elmhurst New York 11370 I had an altercation with an ~~inmate~~ inmate the C.O's locked me in my cell even though I didn't cause it and they did not move either of us so I got anxious so I blocked my window and hung myself in my cell next thing I know there using ammonia to wake me up and told them to take me to the gurney then they rolled me to the clinic I told them not to put me back in that house but captain Alan told them to put me back there anyway and when I got there the inmate punched me several times with a closed fist I suffered a loose tooth and busted lips then they finally moved me out the housing area.

After that situation they put me back into OBL 5 north housing Area the same Area I have all my problems in with the same inmates on August 27 2016 in OBCC 16-00 Hazen st East Elmhurst New York 11370 C.O Earle was going on a power trip she changed my

pin number so I called 311 on her also told to fix it when she found out I called 311 on her she told the inmates that she knows runs the housing Area and told them if they didn't move me pack up out of the house she would get all of us packed up together when I ~~had~~ heard that I told captain middleton and Jane Doe Deputy Defendant & and they did nothing despite my several desperate cries about safety and then around 1:00pm they assaulted me once and the C.O's did nothing then the same guys came jumped me again but this time they cut me in my head with some kind of ice pick slashing the top off my head open when the C.O's saw blood they when they finally stopped the fight and escorted me out the housing area with blood every where

Since these excessive uses of force police negligence aggravated physical and emotional harassment situations we went through I have been feeling especially frightful, nervous and anxious around people also I have permanent markings on my head and wrist leaving my head almost always aggravated with headaches migraines I have been emotionally physically and sexually damaged these are the reasons for my claims

I feel like my civil natural born rights have been violated and discriminated against also my minimum standards afforded to me during incarceration have been denied and looked over so this claim is for me to find justice in this crooked department.

Facts: (what happened?)

See Attached II

**II.A. Injuries.** If you are claiming injuries as a result of the events you are complaining about, describe your injuries and state what medical treatment you required. Was medical treatment received?

I have lacerations to my head wrist  
neck and lip that will never go away  
leaving constant pain and irritation  
emotionally scared I am fearful anxious  
and paranoid around most people I got  
my lacerations treated and Im seeing

mental health clinicians per my deteriorating mental states.

III. **Relief:** State what relief you are seeking if you prevail on your complaint.

monetary relief in the amount of 300,000

A public apology of and admittance of wrong doing for same type of closure

I declare under penalty of perjury that on 10/24/16, I delivered this  
(date) complaint to prison authorities at AMKC to be mailed to the United  
(name of prison) States District Court for the Eastern District of New York.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 10/24/16

Desean Gaither  
Signature of Plaintiff

AMKC

Name of Prison Facility or Address if not incarcerated

18-18 Hazen St

East Elmhurst NY

11370

Address

241-16-05073

Prisoner ID#